

1.05 CONSULTANT SELECTION AND CONTRACTING PROCESS

When the State does not have adequate resources (such as qualified personnel, adequate staff, specialized expertise, or ample time) to perform a task, consultant services are contracted. A professional consultant is a licensed professional engineer, licensed professional architect, licensed landscape architect, licensed industrial hygienist, or licensed surveyor. A qualified and experienced consultant in relation to the expected scope of work is obtained according to an approved selection process through the Engineering Contracts Unit Program in the Contracts & Market Analysis Branch.

This process is also followed when Construction Manager/General Contractor or CMGC services contractor is required for CMGC delivery. If CMGC services that require a Contractor produce any stamped design plans or lead a formal Value Engineering Study, Brooks Act compliance per the Consultant Selection process will be required. If no Brooks Act compliance is required for the CMGC process, please follow the alternate process for CMGC projects.

The method for obtaining a professional consultant to do a specific scope of work or non-project-specific consultant services shall comply with applicable federal and state laws governing the services of consultants, as outlined in CDOT Procedural Directive 400.1, Obtaining Professional Consultant Services, and 23 CFR Section 172, Administration of Engineering and Design Related Services.

The Program Manager in the Contracts & Market Analysis Branch is responsible for the prequalification and coordination in the selection of a consultant, and developing a contract between the state and the selected consultant. The **Engineering Contracts Unit** facilitates the selection process. The Resident Engineer shall evaluate the consultant's performance on projects.

1.05.01 Obtaining a Consultant Contract

The following steps are necessary to obtain an executed consultant contract. The **Engineering Contracts Unit** shall perform the steps unless otherwise noted [responsible persons are identified in parentheses after each step]:

1. Ensure that the proposed consultant service is consistent with CDOT's Long-Range Plan, Statewide Transportation Improvement Program, the CDOT budget, and the Obligation Plan (Program Engineer, Resident Engineer and Business Office).

2. Develop scope of work. For non-fund encumbering (generally, Non-Project Specific or NPS contracts), the Scope of Work should provide a general description of the anticipated services. For fund encumbering contracts and Task Orders, the Scope of Work will be project specific and detailed to include all requirements and deliverables. If the Consultant is known, the Scope of Work should be reviewed with the Consultant and modified as necessary for clarity. (Resident Engineer)
3. Prepare an Independent Cost Estimate (ICE) as described in Section 1.05.01.02 below. (Resident Engineer).
4. Prepare consultant selection request, including the Underutilized Disadvantaged Business Enterprise (UDBE) goals, for the Chief Engineer's approval for advertisement (Resident Engineer and Region EEO/Civil Rights Specialist).
5. Establish a selection panel (Resident Engineer).
6. Create selection schedule (Resident Engineer and the Engineering Contracts Unit Staff).
7. Advertise Invitation for Consultant Services on the Internet and, as needed, in special journals (contract writer).
8. Create and distribute the selection information and instruction package to the consultant community (contract writer).
9. Coordinate and facilitate selection panels to achieve consensus and make a recommendation to the Chief Engineer (contract writer).
10. Obtain RTD's approval of the selection results. (Resident Engineer)
11. Obtain the Chief Engineer's approval of the selection results (contract writer).
12. Notify consultants of selection results (contract writer).
13. Finalize the ICE. For non-fund encumbering Contracts, use the ICE Summary Template, Type A, in Section 1.05.02.03. For fund encumbering Contracts/Task Orders, work-hours and costs will be negotiated with the Consultant and the results documented in the ICE Summary Type B (Section 1.05.02.03) for "Fund Encumbering Contracts/Task Orders." Include all documents in the solicitation request to the Engineering Contracts Unit. (Resident Engineer)
Note: For task order contracts, this step is done for each task order request.
14. Obtain and review the consultant's financial information, insurance information, and initial cost proposal (Consultant Audit).
15. Initiate audit evaluation (Consultant Audit Program).
16. Analyze audit evaluation report and negotiate consultant fee and final contract cost exhibit (contract writer).
17. Prepare final contract and route the contract for approval and signatures. Distribute executed contract (Procurement and Business Offices).
18. Issue the Notice-to-Proceed to the consultant (Engineering Contracts Staff).
19. Debrief consultants, as requested, on selection results (contract writer).

20. Compile selection documentation and transmit the selection file to the CDOT Records Center (contract writer).

The Resident Engineer is responsible for the submittal of the Contract Certification and Contractor Evaluation forms that are part of the Colorado State Controllers Contract Management System (CMS). See [Section 1.06](#) Contract Certification and Evaluation Requirements for Colorado Contract Management System (CMS).

1.05.02 Preparing an Independent Cost Estimate for Consultant Services

1.05.02.01 Background

Professional (engineering and architecture) services for CDOT projects are acquired through a qualifications-based process in accordance with the Brooks Act (Title 40 United States Code, Chapter 11, Section 1101-1104). The Brooks Act requires agencies using federal funds for construction projects to promote open competition by advertising, selecting, and negotiating contracts based on qualifications, and at a fair and reasonable price.

State and Federal laws require State Departments of Transportation to develop an Independent Cost Estimate (ICE), including an independent Work-Hour Estimate, as a part of the contracting process for all professional services. An ICE must be completed for all contracts and task orders valued in excess of \$100,000.

1.05.02.02 Definitions

Assumptions – An important component of an ICE is documenting assumptions relative to the tasks, i.e. definitions, resource needs, durations, etc.

Independent Cost Estimate (ICE) – A cost estimate to accomplish the scope of work, completed by the CDOT Project Manager. In addition to the cost of labor, an ICE should include fees, material costs, equipment charges indirect charges, and all other costs for a contract.

Scope of Work – A detailed listing of requirements, criteria, and objectives for services that a Consultant is expected to provide.

Work-Hour Estimate – Used to develop the ICE, the estimated Consultant labor hours required to complete the established scope of work.

1.05.02.03 Process

Non-Fund Encumbering Contracts:

Non-Fund Encumbering Contracts are typically Non-Project Specific (NPS) Contracts for which specific service needs are defined and executed through Task Orders. A solicitation request for this type of Contract to the Engineering Contracts Unit must include an Independent Cost Estimate (ICE) Summary. Although specific work details may be unknown, the ICE should provide a general estimate identifying the number of consultant work-hours and cost, to justify the value of the contract to be awarded. The ICE should be formatted using the template below:



Type A - Non Fund
Encumbering ICE

Fund Encumbering Contracts/Task Orders:

For Fund Encumbering Contracts or Task Orders, the ICE is more detailed because the Consultant and specific work requirements are known. In this case, the following steps must be completed prior to submitting an ICE with a solicitation request to the Engineering Contracts Unit:

- (1) Independent Cost Estimate (ICE) (Required (>\$100K)) – Upon completion of the Scope of Work, the CDOT Project Manager and Consultant separately must complete an ICE based on the estimated resources, work-hours and other related material/services needed to accomplish all of the required tasks. To simplify the negotiation process, the CDOT Project Manager and the Consultant should use an identical format for the work-hour estimate. Assumptions should be clearly documented, and all applicable labor, equipment, materials, and other costs should be included.
- (2) Work-Hour/Project Cost Negotiation (Required (>\$100K)) – Upon completion of the ICEs, the CDOT and Consultant Project Managers should review and negotiate the work-hours and project costs, regardless of the magnitude of the differences in the estimates. The basis of the negotiation should address the allocation of resources and work-hours, and not solely the total cost. The final work-hour distribution and project cost shall be documented on the Work Hour and Cost estimate Worksheets in the ICE Summary (see below Section (3)). Copies of the CDOT and Consultant ICEs should be retained in the project records.

Any changes to the Scope of Work as a result of the negotiations should be incorporated in the Final Statement of Work submitted with the solicitation request.

- (3) Independent Cost Estimate (ICE) Summary (Required (>\$100K)) – The Summary will include the initial CDOT ICE as well as a comparison of the CDOT and

(4) Consultant Total Cost estimates, as prepared and prior to negotiation. The ICE Summary **MUST** be formatted using the template below:



Type B-Fund
Encumbering ICE Sur

NOTE: If a Task Order Amendment is of a value greater than \$100k OR a Task Order Amendment revises the collective Task Order value greater than \$100k for the first time, steps 1 thru 4 above are required.

1.05.03 Obtaining a CMGC Contract (Alternate Process)

The following steps are necessary to obtain an executed CMGC contract. The **Engineering Contracts Unit** shall perform the steps unless otherwise noted [responsible persons are identified in parentheses after each step]:

1. Ensure that the proposed CMGC service is consistent with CDOT's Long-Range Plan, Statewide Transportation Improvement Program, the CDOT budget, and the Obligation Plan (Program Engineer, Resident Engineer and Business Office).
2. Develop scope of work (Resident Engineer).
3. Prepare a contract cost estimate (Resident Engineer).
4. Prepare CMGC selection request, including the Underutilized Disadvantaged Business Enterprise (UDBE) goals, for the Chief Engineer's approval for advertisement (Resident Engineer and Region EEO/Civil Rights Specialist).
5. Establish a CMGC selection panel per CMGC guidance from the Innovative Contracting Advisory Committee (Resident Engineer).
6. Create selection schedule (Resident Engineer and the **Engineering Contracts Unit** Staff).
7. Advertise Invitation for CMGC Services on the Internet and, as needed, in special journals (contract writer).
8. Create and distribute the selection information and instruction package to the CMGC and CCA community (contract writer).
9. Coordinate and facilitate selection panels to achieve consensus and make a recommendation to the Chief Engineer (contract writer).
10. Obtain RTD's approval of the selection results. (Resident Engineer)
11. Obtain the Chief Engineer's approval of the selection results (contract writer).
12. Notify contractors of selection results (contract writer).

13. Finalize scope of work, and for project-specific funds-encumbered contracts, negotiate work-hours and the cost proposal (Resident Engineer and the contractor representative), and submit those to the **Engineering Contracts Unit**.
Note: For task order contracts, this step is done for each task order request.
14. Obtain and review the contractor's financial information, insurance information, and initial cost proposal (contract writer). (Only for Brooks Act CMGC Contracts.)
15. Initiate audit evaluation (contract writer). (Only for Brooks Act CMGC Contracts.)
16. Analyze audit evaluation report and negotiate contractor fee and final contract cost exhibit (contract writer). (Only for Brooks Act CMGC Contracts.)
17. Prepare final contract and route the contract for approval and signatures. Distribute executed contract (Procurement and Business Offices).
18. Issue the Notice-to-Proceed to the contractor (**Engineering Contracts Unit** Staff).
19. Debrief contractors with CMGC Debrief Template on selection results. In-person debriefs are optional and up to the Resident Engineer. (contract writer)
20. Compile selection documentation and transmit the selection file to the CDOT Records Center (contract writer).

The Resident Engineer is responsible for the submittal of the Contract Certification and Contractor Evaluation forms that are part of the Colorado State Controllers Contract Management System (CMS). See [Section 1.06](#) Contract Certification and Evaluation Requirements for Colorado Contract Management System (CMS).

